



County of Los Angeles

CHIEF ADMINISTRATIVE OFFICE

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DAVID E. JANSSEN
Chief Administrative Officer

July 3, 2003

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Second District

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Third District

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Fifth District

To: Supervisor Yvonne Brathwaite Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

STATE LEGISLATIVE UPDATE

Pursuit of County Position on Legislation

Workers' Compensation Reform. Our Sacramento Advocates have learned that a conference committee on workers' compensation will likely be created shortly, with work to begin in mid-July. The committee would address the numerous Democratic and Republican workers' compensation reform proposals.

Additionally, over the past month, CAO Risk Management has been working with the City of Los Angeles, the Los Angeles Unified School District (LAUSD), and the Metropolitan Transit Agency (MTA) to discuss and review needed legislative reforms in Workers' Compensation with a goal of developing a common set of priorities. The County has developed the attached list of key legislative priorities consistent with the State Legislative Agenda which, if enacted, would provide the County with roughly \$60 million in annual savings or cost avoidances. The City of Los Angeles is supportive of a more modest set of reforms that, while consistent with the County's priorities, would only provide about \$6 million in annual savings to the County. LAUSD and MTA are supportive of the City's priorities and some of the County's. **We will continue to work with our local government partners, and our Sacramento Advocates will communicate to the delegation our key workers' compensation priorities.**

AB 1676 (Dutra), as amended on June 18, 2003, requires the blood of a pregnant woman that is currently drawn to test for blood type and hepatitis B to also be tested for the human immunodeficiency virus (HIV), unless the woman refuses. The acceptance of testing must be documented in writing. The bill would also require that the blood specimen be submitted as early as possible during prenatal care to a clinical laboratory or approved public health laboratory, and that the results be reported to the prenatal provider and the patient. The prenatal provider must ensure that the patient receives information and counseling to explain the test results and implications, including any necessary follow-up care.

In a recent Assembly Appropriations Committee report, the author indicates that most HIV-infected infants and children are exposed during pregnancy, during childbirth, or through breast feeding. The Committee estimates annual costs of \$923,000 for Medi-Cal to provide the tests and the appropriate anti-retroviral therapy. In April of this year the Centers for Disease Control and Prevention called for routine HIV testing for all pregnant women on an opt out basis, which is consistent with AB 1676. The Department of Health Services (DHS) reports that treatment before, during, and after labor can help decrease the risk of transmission to newborns. DHS recommends that the County support AB 1676 because early detection through HIV testing is cost-effective and would improve the health outcomes of pregnant women and their babies, and we concur. **Consistent with County policy to support funding for public health activities, including maternal and child health and sexually transmitted disease, our Sacramento advocates will support of AB 1676.**

AB 1676 is sponsored by the author and supported by the California Medical Association, American Academy of Pediatrics, American College of Obstetricians and Gynecologists, AIDS Project Los Angeles, and the San Francisco AIDS Foundation. It is opposed by the AIDS Healthcare Foundation. AB 1676 passed the Assembly Floor on May 29, 2003 on a vote of 79 to 0, and now awaits a hearing date in the Senate Health and Human Services Committee.

Status of County-Interest Legislation

County-supported AB 28 (Pavley), which would enact the Firefighting Hazardous Materials Response Team Equipment Act of 2003 and would provide funding to purchase hazardous materials response apparatus and equipment, was amended on June 26, 2003 to clarify how the equipment may be used in a manner consistent with the Master Mutual Aid Agreement. AB 28 passed the Senate Government Organization Committee on July 1, 2003 on a vote of 8 to 1, and was referred to the Senate Appropriations Committee.

County-supported AB 355 (Pacheco), which would amend the Welfare and Institutions Codes definition of escape from custody by a juvenile to include escape or attempted escape from a regional facility, a privately owned facility, or from a field trip site, was amended on June 30, 2003 to define regional facility as any facility used by one or more public entities for the confinement of juveniles for more than 24 hours. AB 355 remains in the Senate Appropriations Committee and awaits a hearing date.

County-supported AB 490 (Steinberg), which seeks to ensure all students in foster care have the opportunity to meet the same academic achievement standards as other students, and are placed in the least restrictive educational program with access to the same academic resources and services as other pupils, was heard in the Senate Education Committee on July 2, 2003, and placed on the Suspense File. The Committee intends to take up its Suspense File sometime next week.

County-sponsored AB 1153 (Bermudez), which would criminalize the unauthorized use, manufacture or sale of any official State, county, city, city and county or agency badge and/or associated photographic identification card, was amended on July 1, 2003 with a technical amendment to conform with existing law and remains in the Senate Appropriations Committee where it awaits a hearing date.

County-sponsored SB 59 (Escutia), which seeks to shorten the amount of time on adoption appeals, passed the Assembly Appropriations Committee on July 2, 2003 and is currently on the Assembly Floor.

County-supported SB 919 (Ortiz), which would add code enforcement officers, as defined in the bill, to the list of officers protected under the Penal Code, passed the Assembly Public Safety Committee on July 1, 2003 on a vote of 7 to 0, and will now go to the Assembly Appropriations Committee.

Status of County Interest Legislation

County-opposed AB 1531 (Longville), which would mandate that there be three elections during presidential election years, including a presidential primary and a primary for all other offices in addition to the general election, passed the Senate Elections and Reapportionment Committee on July 2, 2003 on a 3 to 1 vote and now goes to the floor.

County-opposed SB 125 (Chesbro), which would add welfare fraud investigators and inspectors to those eligible for public safety workers' compensation disability benefits, passed the Assembly Committee on Insurance on July 2, 2003 and now goes to the floor.

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We will continue to keep you advised.

DEJ:GK
MAL:JF:ib

Attachment

c: Executive Officer, Board of Supervisors
 County Counsel
 Local 660
 All Department Heads
 Legislative Strategist
 Coalition of County Unions
 California Contract Cities Association
 Independent Cities Association

COUNTY OF LOS ANGELES

KEY WORKER'S COMPENSATION REFORM LEGISLATIVE PRIORITIES JULY 2003

From 1997-98 to 2001-02, the County's total annual workers' compensation benefit costs have increased from \$148 million to \$295 million. The medical cost portion increased 83% from \$62.5 million to \$114.7 million – a rate far faster than general medical costs have increased over the same period.

The County supports reforms that will promote an efficient, equitable, and cost effective workers' compensation program while maintaining reasonable benefit levels. Specifically, we estimate the following key reforms would provide the County with savings/cost avoidance of \$60 million annually:

Promote Prudent Use of Health Care

- Adopt the Medicare fee schedule for all workers' compensation treatment, including pharmaceuticals and outpatient surgery centers.
- Adopt standardized, clinically-based protocols for procedures such as chiropractic treatment and physical therapy.
- Establish an independent medical review process with physicians trained in occupational medicine to resolve treatment issues.
- Require use of generic drugs, with exceptions where clinically appropriate.
- Establish a physician certification program for physicians treating workers' compensation cases.
- Completely repeal the treating physician presumption of correctness.
- Allow employers to negotiate rates on a capitation basis with health care providers and plans.

Improve Accountability and Administration

- Revise penalties for delay or denial of benefits to maintain substantial penalties for employers who continually fail to pay claims, and reduce penalties for minor payment delays by limiting a penalty to 10% of an individual invoice only.
- Establish a one-year statute of limitations for filing penalty claims.
- Require physician diagnostic reports to address the contribution of preexisting conditions when establishing permanent disability, and eliminate the employer's liability for prior non work-related injuries or illnesses.
- Require use of the American Medical Association (AMA) Disability Guidelines to promote a more objective system to determine permanent disability.
- Require that the burden-of-proof and the standard for determining job-relatedness in cumulative trauma injuries use the same standard as currently exists for psychiatric injuries.

Align the Public and Private Sectors

- Include all employers in the provisions of current law that enable use of an alternate dispute resolution (ADR) system to resolve workers' compensation claims with involvement with applicable unions in the development of an ADR process.
- Include the public sector in the return-to-work incentive program.
- Prohibit any new or expanded presumptions in the public sector.
- Prohibit expansion or increase in eligibility for tax free, full salary benefits (Labor Code Section 4850) in lieu of temporary disability benefits in the public sector.

Additionally, the County is urging the following corrective actions be taken to address implementation issues of AB 749 (Calderon) that was enacted in 2002:

Corrective Actions to AB 749

- Suspend future benefit increases until there is an indication that workers' compensation reforms are working, costs are under control, and the insurance industry has been stabilized.
- Correct the minimum temporary disability rate problem that results in persons receiving more money while disabled than when they return to work.
- Repeal Labor Code Section 4702(a)(6) pertaining to a worker who dies without dependents that provides for payments to be made to the decedent's estate rather than the State.
- Permit employers to negotiate a lump sum rehabilitation settlement with employees who elect not to be represented by legal counsel.